

VZCZCXYZ0004
OO RUEHWEB

DE RUEHSG #0001/01 0021102
ZNR UUUUU ZZH
O 021102Z JAN 09
FM AMEMBASSY SANTIAGO
TO RUEHC/SECSTATE WASHDC IMMEDIATE 4219
INFO RHMFIUU/DEPT OF JUSTICE WASHINGTON DC
RUEATRS/DEPT OF TREASURY WASHDC
RUCPDOG/DEPT OF COMMERCE WASHDC
RUCNMER/MERCOSUR COLLECTIVE

UNCLAS SANTIAGO 000001

STATE PLEASE PASS TO USTR KATE DUCKWORTH
STATE FOR WHA/EPSC, EEB/TPP/BTA/EWH, EEB/TPP/MTA/IPC
TREASURY FOR SSENICH
COMMERCE FOR KMANN

SENSITIVE
SIPDIS

E.O. 12958: N/A
TAGS: [ECON](#) [EINV](#) [EFIN](#) [ETRD](#) [KIPR](#) [EFTA](#) [CI](#)

SUBJECT: Fifth Annual Meeting of U.S. - Chile Free Trade
Commission

11. (SBU) SUMMARY: The fifth annual U.S.-Chile Free Trade Commission (FTC) met December 12 in Santiago, Chile. The FTC discussed: 1) the effects of the U.S.-Chile Free Trade Agreement (FTA) on trade and investment between the two countries, 2) the FTA institutional framework, 3) FTA implementation issues, 4) acceleration of tariff elimination, 5) bilateral trade issues, and 6) information on other bilateral and multilateral trade negotiations. The FTC agreed to hold a sixth session in December 2009. DIRECON Director for Bilateral Economic Affairs Andres Rebolledo told the Ambassador Chile was enthusiastic to take up work on the fourth pillar in Pathways. END SUMMARY.

12. (U) Chile's Direccion General de Relaciones Economicas Internacionales (DIRECON) hosted the fifth annual FTC at the Chilean Ministry of Foreign Affairs (MFA) in Santiago, on December 12. DIRECON is formally part of the MFA, but is the equivalent of USTR. DIRECON Director for Bilateral Economic Affairs Andres Rebolledo led the Chilean delegation. Other key DIRECON participants included: new Director for Multilateral Affairs Rodrigo Contreras, new Director for Market Access Paulina Nazal, new Director for North America Sandra Ramos, Director for IPR Carolina Belmar, Director for Trade and Sustainable Development Edda Rossi, Special Advisor on Labor Issues Pablo Lazo, Advisor on Technical Barriers to Trade Carolina Ramirez, and Advisor for North America Ana Maria Saldias. Other Chilean representatives included: Economic Counselor at the Chilean Embassy in Washington D.C. Rolando Ortega and Director for North America at ProChile Claudia Ibanez.

13. (U) The U.S. delegation was led by Assistant U.S. Trade Representative for the Americas Everett Eissenstat and included the Ambassador, USDA Representative Melinda Sallyards, USTR Brazil and Southern Cone Director Kate Duckworth, USDOC Chile Desk Officer Kristen Mann, Agricultural Attache, Agricultural Specialist, Econoff, and Econ Specialist.

FTA Effects on Trade and Investment

14. (SBU) Andres Rebolledo opened the FTC with a report on trade between Chile and the U.S. He said the U.S. remained Chile's largest trade partner in 2008, although China was the primary export destination and the EU was the primary import source. Trade between the U.S. and Chile officially doubled between the entry into force of the FTA and 2007.

15. (SBU) There were differences in the trade and investment data reported by each side, likely due to different methodologies. Because the meeting took place in Chile, it was agreed that Chile's figures would be used in the joint statement. Rebolledo reported

bilateral trade in goods between January and September of 2008 was valued at \$15.2 billion, up 27% from the same period in 2007. However, Chilean exports were down by 3% for the first nine months of 2008, for the first time since the FTA went into force. Both sides acknowledged that the decrease is likely due to the worldwide economic crisis. Imports from the U.S. had risen 60% during the same period. Chile had its first trade deficit with the U.S.

¶16. (SBU) Rebolledo stated trade in services between Chile and the U.S. had increased by 13% to \$2.6 billion in 2007 (latest figures available). U.S. foreign direct investment (FDI) in Chile decreased by 21% over 2006, totaling \$265.6 million in 2007. Rebolledo expressed Chile's concern regarding the downward trend. He noted the U.S. was the fifth largest destination for FDI from Chile (the top four were all in Latin America).

¶17. (SBU) Eissenstat underlined the impact of the global financial crisis and the current economic downturn in the U.S. He noted trade could act as an engine of growth and diversification. Responding to Chile's concern about U.S. FDI, both the U.S. and Chile agreed to monitor trade and investment trends for the next FTC. Rebolledo said Chile understood the pressures caused by the global crisis. One of the GOC's priorities was to maintain its network of FTA's as 90% of Chile's products fell under the regulations of at least one FTA.

FTA Institutional Framework

¶18. (SBU) Eissenstat highlighted that 2008 had been one of the most active years to date under the U.S.-Chile FTA. The Working Group on Agricultural Trade, Environment Affairs Council, Committee on Trade in Goods, Committee on Sanitary and Phytosanitary Issues, Committee

on Government Procurement, and Committee on Technical Barriers to Trade (TBT) had all met during the year. Eissenstat stressed the cooperation between both countries at a technical level was extremely valuable. Rebolledo congratulated both countries on successful resolution of the issue regarding table grapes (see para 21), and acceleration of tariff elimination (see paras 18 and 19). The FTC agreed all committees should continue to meet in 2009 and a sixth FTC should meet in December 2009.

¶19. (SBU) Pablo Lazo outlined progress under the Labor Chapter of the FTA. He noted the U.S. and Chilean representatives to the Labor Committee enjoyed excellent cooperation (including in other fora, such as APEC). Rebolledo and Eissenstat noted that representatives from the U.S. Department of Labor and Chile's Foreign Affairs Ministry met in Geneva in June 2008 where both parties agreed to defer consideration of another Labor Affairs Council meeting until ¶2009. The FTC agreed that a Secretary/Minister level meeting should take place in 2009 (after the new U.S. Labor Secretary is in place).

¶10. (SBU) Edda Rossi provided a readout of progress made in the Environmental Chapter of the FTA. The Environmental Affairs Council met in April 2008. Both sides agreed: 1) to change the list of joint-projects from those stipulated in the FTA, 2) to postpone a third meeting of the Council until April 2009, and 3) to emphasize the success of the Environmental Chapter as a model for other FTAs. Eissenstat lauded the cooperation shown by the U.S. and Chile in the work of the Environmental Affairs Council.

FTA Implementation: Advanced Rulings

¶11. (SBU) Rebolledo stated Chile planned to implement advanced rulings in March 2009. Eissenstat expressed U.S. appreciation for Chile's move to fully implement its FTA obligation. He said the U.S. Trade Development Agency could continue to act as a resource if needed.

FTA Implementation: Government Procurement

¶12. (SBU) On Government Procurement, Rebolledo noted Chile's desire to move forward as soon as possible (in part because Chile's FTA with Australia made reference to its obligations under the

U.S.-Chile FTA). The GOC had updated existing mechanisms and created new ones to implement its FTA obligation. Eissenstat explained the U.S. was also interested in seeing Chile accede to the WTO Agreement on Government Procurement and would present a non-paper in the future with some ideas. If it decided to accede, Chile would be the first country in Latin America to do so. Rebolledo responded that Chile would wait to see China's decision on the issue. The GOC had already concluded agreements with 37 of the 40 existing members of WTO Agreement.

¶13. (U) At the end of the FTC, the U.S. and Chile agreed to several modifications and rectifications of the Government Procurement Annex (Annex 9.1) of the U.S. - Chile FTA, as provided for in Article 9.14 of the Government Procurement Chapter. The modifications and rectifications reflect: 1) for Chile, changes in the political and administrative structures of Chile's central and sub-central government entities; and 2) for the United States, a change in the name of the entity listed for the State of Oklahoma.

¶14. (U) The U.S. and Chile also executed an exchange of letters to modify Section G of Annex 9.1 clarifying the threshold adjustment process. Chile expressed interest in cooperation to assist its private and public sector in understanding the U.S. government procurement system and proposed holding a seminar in Santiago in ¶2009.

FTA Implementation: Intellectual Property

¶15. (SBU) Eissenstat raised the issue of Chile's implementation of its intellectual property rights (IPR) obligations under the FTA. During the last five years, Chile had made progress on some of its commitments, such as the recent passage of the Patent Cooperation Treaty. However, much more is required, and both sides noted that the Special 301 process was due to start in the near future. The U.S. was particularly concerned about better enforcement of data protection and linkage as well as swift passage of pending legislation on copyrights and IPR enforcement. Eissenstat proposed

an IPR Working Group to review implementation of FTA obligations.

¶16. (SBU) Rebolledo argued IPR was a sensitive issue in Chile, but the GOC had made significant progress since it signed the FTA five years ago. It was a priority for Chile, however, many more actors were now involved, which was slowing down progress on implementation. Rebolledo said three laws were pending before Congress which would bring Chile closer to fulfilling its commitments (a Copyright Law, an Illegal Commerce and Piracy Law, and a Plant Variety Law). In addition, USTR and DIRECON maintained good communication, conducting a number of video conferences on the issue. Rebolledo said a Working Group was unnecessary. The existing channel of communication was sufficient and the GOC did not want to create more pressure over the issue than was necessary.

¶17. (SBU) Both sides agreed to continue constructive dialogue on intellectual property. They resolved that in the first quarter of 2009, experts from both sides will meet to perform a thorough technical review of the status of implementation of Chapter 17 on IPR.

Accelerated Tariff Elimination

¶18. (SBU) During the FTC, the U.S. and Chile agreed to accelerate elimination of tariffs on goods covering approximately \$35 million in annual trade. The tariff cuts will be implemented January 1, ¶2009. The items identified for accelerated tariff elimination were selected based on requests by producers, consumers, and traders eager to take advantage of the benefits of the FTA. The U.S. will eliminate tariffs on products including spinach, sweet corn, preserved artichokes and frozen vegetables. Chile will eliminate tariffs on products including rice, peas, safety headgear, and certain chemicals.

¶19. (SBU) Rebolledo underlined Chile would be interested in finding other eligible products for future tariff elimination. The U.S. said it would be open to hearing a proposal on future products and suggested that the Committee on Trade in Goods explore the topic

further.

Rules of Origin

¶20. (SBU) Eissenstat noted the U.S. had received the report from the U.S. International Trade Commission on the probable economic effects of the proposed changes to the rules of origin on October 31, 2007 and the next step would be a submission of the proposed changes to the U.S. Congress for a 60-day layover period. He said there is an ongoing discussion between industries in both countries over some concerns related to chocolate candy. Rebolledo said the GOC was willing to move forward without a resolution on chocolate.

Bilateral Trade: Grapes and Citrus

¶21. (SBU) After thorough consultations under Article 3.17 of the Agreement, the U.S. and Chile reached an agreement in November 2008 with respect to trade in table grapes. Chile expressed its gratitude for the cooperative and mutually beneficial trade relationship relating to the export of fresh fruit to the United States, most recently the initiation of proposed rules for systems approaches to address phytosanitary treatment of oranges, grapefruit, and table grapes. On the latter, Chile asked for the status of these proposed rules which appear to be on schedule for finalization. USDA Representative Sallyards thought rules might be ready by mid-2009 on table grapes, to be followed by rules on citrus fruits.

Bilateral Trade: Beef

¶22. (SBU) The U.S. renewed its longstanding request for market access for all ages of U.S. beef, beef products, and live cattle in line with the World Organization for Animal Health (OIE) guidelines. Chile explained that it is currently receiving public comment on its internal rulemaking and expected to have news for the U.S. in March 2009.

¶23. (SBU) The FTC agreed the competent USG and GOC authorities will exchange letters regarding the mutual recognition of grading programs for the purpose of marketing beef. Rebolledo proposed they

be signed at the ministerial level, which the U.S. delegation accepted. The U.S. offered to send draft letters as quickly as possible and Chile agreed.

Bilateral Trade: Raspberries

¶24. (SBU) Rebolledo noted the GOC was interested in forming a committee in the U.S. to discuss expanding sales of raspberries. Eissenstat promised to relay this request to Washington.

Bilateral Trade: Nitrates

¶25. (U) The Chilean delegation raised concerns regarding the new regulation of the Department of Homeland Security affecting Chilean nitrates (potassium and sodium) and reiterated its desire to be excluded from Appendix A of this regulation. The U.S. took note of Chile's concerns and expressed that in this case both sides will continue to discuss at the Committee level and exchange information.

Bilateral Trade: Customs Valuation

¶26. (SBU) Eissenstat raised U.S. concerns about systemic problems with Chile's customs valuation obligations under the FTA. Rebolledo suggested discussing the issue in detail in the Committee on Trade in Goods in the first quarter of 2009. [Note. In a courtesy call with Eissenstat before the FTC, Multilateral Director Contreras had suggested this possible compromise to address U.S. concerns.] The U.S. side could use this forum to provide Chile with information on the U.S. container screening process. The U.S. delegation accepted Chile's proposal.

Other Trade Negotiations

¶27. (SBU) Both parties exchanged information about their respective bilateral negotiations, and their positions in the WTO, APEC, Trans-Pacific Partnership and OECD.

Pathways to Prosperity

¶28. (SBU) In an aside with the Ambassador, Rebolledo stressed Chile was enthusiastic about working on the trade pillar of Pathways. He said it still required more definition as Chile was working through similar issues in the Arco del Pacifico.

¶29. (U) This cable was cleared by USTR.
URBAN